



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

DARIEN CORNELIUS JUNE,

Plaintiff,

vs.

DICK SMITH FORD OF COLUMBIA,
SCOTT FAIREY, and JOSEPH STUBAUS,

Defendants.

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CIVIL ACTION 3:23-4995-MGL-SVH

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DENYING INDIVIDUAL DEFENDANTS' MOTION TO DISMISS**

Plaintiff Darien C. June (June) filed this lawsuit against Defendant Dick Smith Ford of Columbia, and Individual Defendants Scott Fairey (Scott) and Joseph Stubaus (Stubaus) (collectively, Individual Defendants). June is representing himself.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Individual Defendants' Rule 12(b)(6) motion to dismiss June's defamation claim be denied. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo

determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on September 23, 2024, and Individual Defendants filed their objections on October 7, 2024. The Court has carefully considered their objections, but holds them to be without merit. It will therefore enter judgment accordingly.

The Magistrate Judge initially suggested the Court dismiss June's defamation claim against Individual Defendants based on his failure to state a claim. But, the Court concluded he had arguably alleged facts necessary to assert the claim in his objections to the Report.

Over the course of seven pages, Individual Defendants argue "the Court's initial screening of [June's] Amended Complaint under 28 U.S.C. § 1915(e)(2)(b) does not foreclose [Individual] Defendants' right to move for dismissal under Rule 12(b)(6)." Objections at 1. But, surely they are aware both the Magistrate Judge and this Court are cognizant of that fact. The Magistrate Judge often recommends to the Court that it grant a failure to state a claim motion to dismiss after a plaintiff's claim survived initial screening.

But, the fact of the matter is this: after having made a de novo review of the record, the Court is unconvinced June has failed to state a defamation claim against Individual Defendants. Thus, the Court will overrule their objections and deny their motion to dismiss.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Individual Defendants' objections, adopts the Report, and incorporates it herein. It is therefore the judgment of the Court Individual Defendants' motion to dismiss is **DENIED**.

IT IS SO ORDERED.

Signed this 5th day of November, 2024, in Columbia, South Carolina.

/s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE